HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

WRIT PETITION NO. 9 OF 2002

Petitioner		CISF No. 7013 40223, Devender Singh, S/o Shri Santokh Singh, aged about 50 years, Sub Inspector, C.I.S.F. Unit, Bhilai Steel Plant, Bhilai Nagar, Tahsil and District – Durg (C.G.)
	Versus	
Respondents	1.	Union of India, Through – Secretary, Ministry of Home Affairs, Union of India, New Delhi.
	2.	Deputy Inspector General, Central Industrial Security Force, Unit Bhilai Steel Plant, Ispat Bhawan, Bhilai Nagar, Tahsil and District-Durg (C.G.)
	3.	Commandant, CISF Unit, Bhilai Steel Plant, Bhilai Nagar, Tahsil and District – Durg (C.G.)
	4.	Assistant Commandant, CISF Unit Bhilai Steel Plant, Bhilai Nagar, Tahsil and District Durg (C.G.).
	5.	Deputy Commandant, CISF Unit Bhilai Steel Plant, Bhilai Nagar, Tahsil and District – Durg (CG).

Present: Shri V. G. Tamaskar, counsel for the petitioner.
Shri S. K. Beriwal, Standing counsel for the respondents.

ORAL O R D E R

(10th January, 2006)

1. The petitioner who was working as Sub Inspector, in Central Industrial Security Force (CISF) Unit, Bhilai at Bhilai Steel Plant, Bhilai Nagar, District- Durg, was served with a charge-sheet dated 1.10.2001 (Annexure P/2) issued by the Deputy Commandant, Unit B.S.P. Bhilai. The petitioner has filed this petition under Article 226 of the Constitution of India impugning the Annexure P/2, validity

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and legality of the suspension order dated 14th September, 2001 (Annexure P/1) and order of appointment of Enquiry Officer dated 19th December, 2001 (Annexure P/4).

2. At this stage learned counsel for the petitioner confines his challenge to the legality of Annexure P/2 i.e. charge sheet dated 1.10.2001 on the ground that the Deputy Commandant, proposing to hold the enquiry against the petitioner, who was holding the post of Sub Inspector, is not competent to initiate enquiry against the petitioner as per Schedule-I to the Central Industrial Security Force Rules, 2001 (for short 'the Rules 2001').

3. Rule 36 of the Rules 2001 provides that no order imposing on an enrolled member of the force any of the penalties as specified in clause (i) to (v) of Rule 34 shall be made except after an enquiry held, as far as may be, in the manner, provided therein. Sub Rule (3) of Rule 36 provides that where it is proposed to hold an enquiry against an enrolled member of the force under this Rule the disciplinary authority shall draw up or cause to be drawn up-

(i) the substance of the imputation of misconduct or misbehaviour into definite and distinct articles of charge;

(ii) a statement of the imputation of misconduct or misbehaviour in support of each article or charge, which shall contain-

(a) a statement of all relevant facts including any admission or confession made by the enrolled member of the Force,

(b) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.

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4. In the present case as per Schedule-I of the Rules 2001, imposition of major penalty is contemplated under Rule 34, which are as under:-

> 34. **Nature of penalties**- The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on an enrolled member of the Force, namely:-
>
> **Major Penalties**-
>
> (i) dismissal from service which shall ordinarily be a disqualification for future employment under the Government;
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> (ii) removal from service which shall not be a disqualification for future employment under the Government;
>
> (iii) compulsory retirement;
>
> (iv) reduction to a lower time scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the Government servant to the time scale of pay, grade, post or service from which he was reduced with or without further directions regarding conditions of restoration to the grade or post or service from which enrolled member of the Force was reduced and his seniority and pay on such restoration to that grade, post or service;
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> (v) save as provided for in Cl. (viii) below, reduction to a lower stage in the time scale of pay for a specified period with further directions as to whether or not the enrolled member will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will have the effect of postponing the future increments of his pay.

5. Admittedly, if the enquiry is proposed for major penalties, as stated above, the disciplinary authority, who is Commandant in the present case, is competent to draw up or cause to be drawn up imputation of misconduct or misbehaviour etc. under Rule 36(3) of the Rules 2001. The charge-sheet dated 1.10.2001 (Annexure P-2)

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makes it clear that the proposed enquiry was under Rule 35 of the Central Industrial Security Force Rules, 1969, (For short 'the Rules, 1969'). Rule 35 of the Rules 1969, contemplates imposition of minor penalties and Rule 35 of the Rules 2001 contemplates imposition of petty punishments. On reading of Rule 35 of the Rules 1969, it is clear that the proposed enquiry is not for imposition of major penalty, as stated above, but the minor penalties as contemplated in Rule 35 of the Rules, 1969. The charge-sheet dated 1.10.2001, was accordingly issued by the Deputy Commandant, Unit BSP Bhilai for imposing minor penalty, not major penalty, as contemplated in Rule 36 of the Rules 2001 and the Deputy Commandant is competent to initiate enquiry for imposition of minor penalties as contemplated under Rule 35 of the Rules 1969. In the present case, the charge-sheet (Annexure P/2) is clear to the extent that the proposed enquiry was for imposition of minor penalty.

6. In view of the above position, learned counsel for the petitioner submits that his challenge on the ground of competence of the Officer issuing a charge-sheet does not survive.

7. In view of the above, the petition stands disposed of finally. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur